

BEFORE THE STATE BOARD OF EQUALIZATION OF THE STATE OF CALIFORNIA

In the Matter of the Appeals of)
CHESTER J. SMIGIELSKI

Appearances:

For Appellant: B-ad E. Henschel

For Respondent: Kendall E. Kinyon

Counsel

O P I N I O N

These appeals are made pursuant to section 18593 of the Revenue and Taxation Code from the actions of the Franchise Tax Board on the protests of Chester J. Smigielski against proposed assessments of additional personal income tax and penalties in the total amounts of \$2,873.03 and \$3,125.00 for the years 1978 and 1979, respectively.

Based on information received from the Employment Development Department (EDD), respondent determined that appellant was required to file personal income tax returns for the years 1978 and 1979. Respondent advised appellant that it had no record of such returns being filed and demanded that he file any required returns. Appellant did not respond, and respondent issued notices of proposed assessment, including various penalties, based on income information from EDD. Appellant protested, but the assessments were affirmed, and these timely appeals followed.

Respondent's determinations of tax are presumptively correct, and the burden is on the taxpayer to prove that they are erroneous. (Appeal of Harold G. Jindrich, Cal. St. Bd. of Equal., April 6, 1977.) This rule is also applicable to the penalties assessed in this case. (Appeal of K. L. Durham, Cal. St. Bd. of Equal., March 4, 1980.) Appellant's allegations of improper computation of his taxable income are merit-(See Appeal of Francis J. Pearson, Cal. St. Bd. of Equal., May 19, 1981.) His remaining contentions are based on a variety of frivolous "constitutional" objections to the proposed assessments. (See Appeal of Harry Sievert, Cal. St. Bd. of Equal., April 8, 1980; Appeal of Arthur W. Keech, Cal. St. Bd. of Equal., July 26, 1977.) Under the circumstances, we can only conclude that respondent correctly computed appellant's tax liability and that the imposition of penalties was fully Respondent's actions, therefore, must be justified. sustained.

Appeals of Chester J. Smigielski

ORDER

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the actions of the Franchise Tax Board on the protests of Chester J. Smigielski against proposed assessments of additional personal income tax and penalties in the total amounts of \$2,873.03 and \$3,125.00 for the years 1978 and 1979, respectively, be and the same are hereby sustained.

Done at Sacramento, California, this lst day of February, 1982, by the State Board of Equalization, with Board Members Mr. Bennett, Mr. Reilly, Mr. Dronenburg, and Mr. Nevins present.

William M. Bennett	, Chairman
George I?. Deilly	, Member
Ernest J. Dronenburg, Jr.	, Member
Richard Nevins	, Member
	, Member